

# HOUSE BILL No. 1405

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-44-3-3.

**Synopsis:** Defense to resisting law enforcement. Creates a defense to resisting law enforcement for a motorist who refuses to stop after being ordered to do so because the motorist was unable to determine whether the law enforcement officer was actually a law enforcement officer. Provides that the defense applies only if: (1) the motorist was unable to determine whether the officer was actually a law enforcement officer because visibility was reduced or because the officer was in an unmarked vehicle; (2) the motorist's refusal to stop lasted only long enough to determine whether the officer was actually a law enforcement officer or to drive to a populated location; and (3) after being ordered to stop, the motorist did not speed or operate the motor vehicle in a manner that endangered or could have endangered any person.

**Effective:** July 1, 2007.

**Stutzman**

January 16, 2007, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1405

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-44-3-3, AS AMENDED BY P.L.143-2006,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 3. (a) A person who knowingly or intentionally:  
4 (1) forcibly resists, obstructs, or interferes with a law enforcement  
5 officer or a person assisting the officer while the officer is  
6 lawfully engaged in the execution of the officer's duties;  
7 (2) forcibly resists, obstructs, or interferes with the authorized  
8 service or execution of a civil or criminal process or order of a  
9 court; or  
10 (3) flees from a law enforcement officer after the officer has, by  
11 visible or audible means, including operation of the law  
12 enforcement officer's siren or emergency lights, identified himself  
13 or herself and ordered the person to stop;  
14 commits resisting law enforcement, a Class A misdemeanor, except as  
15 provided in subsection (b).  
16 (b) The offense under subsection (a) is a:  
17 (1) Class D felony if:

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(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or

(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; and

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

(c) For purposes of this section, a law enforcement officer includes an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

**(f) It is a defense to an offense under subsection (a)(3) that, after the law enforcement officer identified himself or herself and ordered the person to stop, the person did not stop solely because the person was unable to determine whether the law enforcement officer was actually a law enforcement officer if:**

**(1) the person was operating a motor vehicle;**

**(2) the person was unable to determine whether the law enforcement officer was actually a law enforcement officer because:**

**(A) darkness, fog, precipitation, or another environmental factor reduced visibility; or**

**(B) the law enforcement officer was not operating a motor vehicle that was clearly marked as a police vehicle;**

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- 1 (3) the person's refusal to stop did not last longer than  
2 reasonably necessary to:  
3 (A) determine whether the law enforcement officer was  
4 actually a law enforcement officer; or  
5 (B) stop the person's motor vehicle in a populated area;  
6 and  
7 (4) after being ordered to stop, the person did not operate the  
8 person's motor vehicle in:  
9 (A) excess of the maximum lawful speed limit; or  
10 (B) a manner that endangered or could have endangered  
11 any person.

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